

BASIC CONTRACT
x-10

Sample Contract
No. 10-LC-20-xxxx
Rev. 3/10

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Klamath Basin Area Office

LEASE OF LAND FOR AGRICULTURAL PURPOSES

THIS LEASE, made this _____ day of _____, 2010, in pursuance of the Act of Congress of June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, between the UNITED STATES OF AMERICA, acting by and through the Bureau of Reclamation, Department of the Interior, hereinafter styled the United States, and represented by the Area Manager, Klamath Basin Area Office, Klamath Falls, Oregon; and _____ hereinafter styled the lessee.

WITNESSETH, that in consideration of the rents and covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DESCRIPTION OF LAND LEASED

1. Subject to the conditions hereinafter set forth, the United States does hereby lease to the lessee, for agricultural purposes, the following described premises in the State of California to wit: Lease Area xxxx Lot No. xxx, shown on Bureau of Reclamation Drawing No. 12-201-5491, containing xx.x acres, more or less, with privileges and appurtenances, subject however, to the exceptions and reservations set out in Article 5 herein.

RENTAL CHARGES

2. The lessee shall pay to the United States rental charges as follows: The sum of \$xxxx (amount of bid) for the period ending January 15, 2011, and the sum of \$xxxx (amount of bid) for each renewal or extension of the lease.

TERM OF THE LEASE

3. The lease of the premises described shall be for the period from the date hereof to January 15, 2011, inclusive, unless sooner terminated as hereinafter provided.

EXTENSION OF THE LEASE

4. (a) The term of the lease as set forth in Article 3 may be extended for successive additional periods of one (1) year each, but not beyond October 31, xxxx, with prior written approval of the Bureau of Reclamation: provided, that the lease may be extended for additional successive periods of one year each for 1) up to five (5) years from the above date if the lessee has achieved organic status as provided in Article 4(b); 2) up to 3 years from the above date for an approved summer flood fallow program as provided in Article 4(c), or 3) up to one year from the above date if the lessee has an approved fall flooding program as provided in Article 4(d). The Bureau of Reclamation may condition its approval of the lease extension on acceptance of new or modified terms and conditions of the Lease. If an extension is approved, an advance payment as stated per Article 2 for the succeeding lease year must be received no later than the date specified on the bill of collection evidencing approval to extend the lease (usually by January 15th). Receipt of the advance payment per Article 2 is lessee's agreement to the terms and conditions in any lease extension.

(b) To obtain the extension provided in Article 4 (a) (1) the lessee must have achieved organic status on the entire lease premises according to the Certified California Organic Farmers' standards. As a condition of

extension, the lessee shall submit an organic certification prior to approval of any lease extension as provided above. Alfalfa and grass hay fields are excluded from this option.

(c) To obtain the extension provided in Article 4 (a) (2) the lessee must agree, as of the date of this lease agreement and any extension of the lease, to have an approved "summer" flood fallow plan. As a condition of extension, the lessee must agree to flood the entire lot continuously, beginning immediately after harvest, for a period of time determined by the Area Manager, but no later than February 15 of the second year following the harvest. This option is available only in lots with pre-existing infrastructure to accommodate flooding and water level manipulation. Water charges pursuant to Article 18 shall be waived during any flood fallowing period, however the lessee would be required to pay all other charges (ie: rent) pursuant to this lease.

(d) To obtain the extension provided in Article 4 (a) (3) the lessee must have an approved "fall" flood fallowing plan. As a condition of extension, the lessee must agree to whereby at the Area Manager's discretion lot may be flooded any year within the term of the lease from post-harvest to February 15. This option is available only in lots with pre-existing infrastructure to accommodate flooding and water level manipulation.

EXCEPTIONS AND RESERVATIONS

5. There are excepted and reserved from this lease:
 - (a) The right to take from said lands material for the construction of irrigation works, and to construct, operate, and maintain such works thereon.
 - (b) The right to prospect and carry on developments for oil, gas, coal, and other minerals, on said lands, under the Act of October 2, 1917 (40 Stat., 297), and the Act of February 25, 1920 (41 Stat., 437).
 - (c) The right to control public access for the purposes of recreation, such as hunting and fishing. The lessee will not be allowed to post the leased premises to prevent such activities.

REPAIRS

6. The lessee shall, at his/her own cost and expense, repair any damages to any Government-owned irrigation or drainage facilities located on or adjoining the lease premises, resulting from farming, irrigation, or drainage practices, and associated farming activities.

STATEMENT OF OPERATIONS

7. Before this lease is executed, and each year before consent to extension, as set forth in Article 4, the lessee must prepare an annual Statement of Operations, including information relating to the previous year's operations under this contract, and the coming year's operations, and submit it for the review and approval of the Area Manager.

The information relating to the previous year's operations will include a report of planting date, cultivar (variety), seed/seed piece treatment and crop yield in units of tons/ac, and harvest date. Additional information required includes: irrigation, tillage, burning, and fertilizers used on each crop grown on the lease, which will include specific fertilizer formulations, rates (reported in lbs/ac for each product), number of applications, total area treated on each crop, and cover crops. This report will be due upon lease renewal for which the Statement of Operations is due.

All of the lease premises must be planted to agricultural crops by June 1, unless approved in writing by the Area Manager. Field checks will be made to determine if crops planted are in agreement with the Statement of Operations.

The lessee will be notified within ten (10) days following the review if the Statement of Operations is not approved. If the Statement is not modified into an approved form within ten (10) days after notification, the United States reserves the right to not renew and to terminate the lease under Article 9.(d).

Making false statements on the Statement of Operations is grounds for termination of the lease. The lessee must notify the Area Manager of any changes in lease operations.

FUEL STORAGE

8. All above ground tanks used on the lease premises shall be double-walled (meeting UL Label 142), equipped with automatic shut-off valves (Murphy SV-12), and reinforced (weather and chemical resistant) fuel lines. All tanks shall be maintained by appropriate measures and removed by November 1 of each year this lease is in effect, or as directed by Area Manager.

PEST MANAGEMENT

9. The use of pesticides on land covered by this lease shall be in compliance with all applicable Federal and State laws, rules, and regulations, and any amendments thereto. Lessees may apply only pesticides that have been approved by the Department of the Interior. Application of pesticides shall be made in such a manner as to assure compliance with the manufacturer's instruction label and with approved pesticide use proposals: Crop scouting by a Refuge Certified individual according to the IPM plan and refined by the Refuge IPM Coordinator and consideration of known action thresholds shall be required prior to all pesticide applications. For each pesticide (insecticide, fungicide, herbicide, etc.) application, a Pest Control Report shall be submitted to the U. S. Fish and Wildlife Service, Klamath Basin NWR, Tulelake, CA, 96134, annually not later than November 15. The Pest Control Report should include, but not limited to, the following: 1) Grower name, business address, and phone number; 2) crop, cultivar, field location, and acres; 3) pest identification (insect, weed, disease, nematode, vertebrate, etc.), common name, and scientific name if known; 4) pest level or damage severity or preventative; 5) known economic/action thresholds; 6) sampling date and procedures; 7) pesticide, rate (gal/treated acre), method and date of application; and 8) additives (adjuvants, buffers, etc.) and amounts (pints/100 gallons).

All fields and crops will be subject to routine year around monitoring by Service and Reclamation personnel and submission of false statements on Pest Control Reports are grounds for lease termination.

GENERAL CONDITIONS

10. In the use of the leased premises, in addition to the foregoing, the lessee agrees that:

(a) No unlawful business shall be conducted. The lessee shall comply with all local, State, and Federal laws, ordinances, and/or regulations.

(b) Subleasing of all or a portion of the leased premises may be allowed upon the written approval of the Area Manager. The sub-lessee shall agree, in writing, to the provisions of this contract. The lessee shall be responsible for the activities of the sub-lessee on the leased premises.

(c) The lessee shall be responsible for the activities of his/her employees, agents, and contractors working on the leased premises.

(d) Portable irrigation pumps shall not be installed on any irrigation lateral or drain without approval from Tulelake Irrigation District for leases in the Tule Lake NWR Lease Area or from the Area Manager for leases in the Lower Klamath NWR Lease Area. The lessee shall be liable for any damage to Government-owned structures resulting from the installation or use of any pumping equipment. **A minimum five (5)-foot horizontal setback must separate irrigation pumps, fuel tanks and bulk chemical storage tanks from the high water mark of any permanent or intermittent surface water resource such as but not limited to canals, drains, sumps, marshes or wetlands, unless written authorization is granted by the Area Manager.**

(e) The dumping of cull potatoes and other waste on the leased premises is prohibited.

(f) The lessee shall, for the purpose of maintaining the crop history of the leased premises, annually report the crop acreage to the Farm Service Agency (FSA). Copy(s) of the report shall be submitted to the Area Manager two weeks prior to the end of the FSA reporting period.

(g) The lessee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and instructions, existing or hereafter enacted or promulgated, concerning any hazardous

material that will be used, produced, transported, stored or disposed of on or in lands, waters or facilities owned by the United States or administered by Reclamation.

"Hazardous material" means any substance, pollutant or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 1901, et seq., and the regulations promulgated pursuant to that Act.

The Lessee may not allow contamination of lands, waters or facilities owned by the United States or administered by Reclamation by hazardous materials, thermal pollution, refuse, garbage, sewage, effluent, industrial waste, petroleum products, mine tailings, mineral salts, pesticides (including, but not limited to, the misuse of pesticides), pesticide containers or any other pollutants, including treated grain spills and fertilizer.

The lessee shall report to Reclamation, within 24 hours of its occurrence, any event which may or does result in pollution or contamination adversely affecting lands, water or facilities owned by the United States or administered by Reclamation.

Violation of any of the provisions of this Condition (j) shall constitute grounds for immediate termination of this contract and shall make the lessee liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(h) The lessee shall obtain Fish and Wildlife Service authorization to conduct certain field operations during specific periods of the year as follows:

January through June 30:

No authorization is required for tillage operations, except as provided by the Special Lease Area Stipulations.

July 1 through December 31:

Written authorization is required from Fish and Wildlife Service to conduct tillage operations on any portion of the leased premises, except annual row crop fields.

(i) Herding/harassing waterfowl or other wildlife which may depredate crops is permitted, except as otherwise provided in Special Lease Area Stipulations. Herding or harassment which involves the taking (shooting/killing) of wildlife is NOT permitted. Only non-toxic shot may be used in non-lethal harassment activities on lease lands. Lead shot may NOT be used to harass wildlife on lease lands.

(j) **Planting and cultivation of genetically engineered crops, also commonly known as genetically modified crops, is not permitted without prior written authorization from U.S. Fish and Wildlife Service, Southwest Pacific Region, Assistant Regional Director - National Wildlife Refuge System. For the purpose of this contract genetically engineering crops are defined as any plants that have been genetically modified using recombinant DNA technology.**

The lessee agrees to include this Condition (j) in any sublease or third party contract entered into pursuant to this lease.

TRANSFER OF LEASE

11. Transfer of the lease may be made only upon the written consent of the Area Manager and upon payment of a \$100.00 transfer fee to the United States.

TERMINATION OF LEASE

12. This lease shall terminate and all rights of the lessee hereunder shall cease, and the lessee shall quietly and peaceably deliver to the United States possession of the leased premises in like condition as when first occupied, reasonable wear and damage by the elements excepted:

(a) At the expiration of the term as provided by Articles 3 and 4; or,

(b) Without notice, upon default in payment to the United States of any installment of rental charges as provided by Articles 2 and 4; or,

(c) On February 15, of any year, upon written notice to the lessee, served thirty (30) days in advance thereof; or,

(d) After failure of the lessee to observe any of the conditions of this lease contract and/or referenced exhibits, and on the tenth day following service of written notice on the lessee of termination because of failure to observe such condition.

(e) As may be required by the U. S. Fish and Wildlife Service pursuant to a determination made in accordance with the Kuchel Act and/or National Wildlife Refuge System Administration Act, as amended. Such termination may be avoided if the lessee agrees to terms and conditions satisfactory to the Area Manager and consistent with the Service's determination.

The notices provided by this article shall be served by certified mail addressed to the respective post office addresses given at the foot of this lease, and the mailing of any such notice properly enclosed, addressed, stamped, and certified, shall be considered as service. If the termination under Article 9.(c), Article 9.(d), or Article 9.(e) should be effective at a date prior to the date of the termination of the then current lease or extension, for which prepayment of rental shall have been made, an appropriate refund (as conclusively determined by the Secretary of the Interior or a representative) or part of the rental for such then current lease or extension may be made.

If this lease contract is terminated under Article 9.(d), the United States reserves the right to bar the lessee from leasing public land in the lease lands for a period of time, as determined by the Area Manager.

INSUFFICIENT SUPPLY OF WATER

13. In the event there is an insufficient supply of water available, irrespective of cause, to the Lease Lands on Lower Klamath and/or Tule Lake National Wildlife Refuges, based on notification by Reclamation, the lessee must provide to the Area Manager written notification, from the irrigation or drainage district in which the lease lot(s) are located, stating that irrigation water will be provided to the lease in question or demonstrate that sufficient soil moisture is available for crop establishment, before stubble burning or tillage will be allowed.

FIRE MANAGEMENT

14. All fire management activities shall comply with all federal, state, and local laws, rules and regulations governing the burning of crop residues. Agricultural burning is contingent on soil moisture, Klamath Project irrigation water availability and Service authorization. In addition, agricultural burning is restricted to the conditions in the fire plans for Tule Lake and Lower Klamath National Wildlife Refuges in the attached statement marked Exhibit A, Special Lease Area Stipulations.

COVENANT AGAINST CONTINGENT FEES

15. Lessee warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the lessee for the purpose of securing business. For each breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to require the lessee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

OFFICIALS NOT TO BENEFIT

16. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company if the contract be for the general benefit of such corporation or company.

HOLD HARMLESS AGREEMENT

17. The United States, its officers, agents and employees and its successors and assigns, shall not be held liable for any claims arising from failure to identify any or all existing conditions or problems on the leased premises. Prior to bidding, the lessee is expected to make an onsite inspection to determine the conditions and the problems on the leased premises.

Also, the United States, its officers, agents and employees, and its successors and assigns shall not be held liable for damages because irrigation water is not available or because of an inability to drain the leased premises in a timely manner.

The lessee hereby agrees to indemnify and hold harmless the United States, its officers, agents and employees, and its successors and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the lessee's activities under this agreement.

OTHER STIPULATIONS

18. The attached statement marked Exhibit A entitled, Special Lease Area Stipulations, is by reference incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names as of the date first above written.

THE UNITED STATES OF AMERICA

By _____
Area Manager, Klamath Basin Area Office
Bureau of Reclamation
6600 Washburn Way
Klamath Falls, Oregon 97603

Lessee

